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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,480	07/11/2007	Vitaliy Bardachenko		9927

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VITALIY BARDACHENKO
UL. ENTUZIASTOVE 3/1-127
KIEV, 02154
UKRAINE

EXAMINER

BRAY, STEPHEN A

ART UNIT	PAPER NUMBER
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2629

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/570,480	Applicant(s) BARDACHENKO ET AL.	
	Examiner STEPHEN A. BRAY	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/03/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

Specification

1. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Oath/Declaration

2. Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in the Ukraine on October 1, 2003. Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Russia on February 11, 1997. It is noted, however, that applicant has not filed a certified copy of the RU 97102215 application as required by 35 U.S.C. 119(b). The Examiner would also like to point out that the filing date of application RU 97102215 occurred more than one year prior to the filing date of the Applicant's PCT application PCT/UA2004/00069, which was filed on September 28, 2004. Therefore the Applicant would not be eligible to receive the foreign priority for application RU 97102215 based upon the filing date of said application.

Claim Objections

4. Claim 2 is objected to because of the following informalities: In Line 1 of Claim 2, the Applicant should replace the phrase "Device according to p. 1 differing..." with the phrase "**A device** according to **claim 2**, differing...". Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

7. The Examiner will attempt reject Claims 1-2 according to what the Examiner understands Claims 1-2 to mean.

Claim Rejections - 35 USC § 103

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Conner et al (US 5,838,306) in view of Michie (US 2001/0024189).

Regarding claim 1, *O'Conner et al* discloses a device for computer cursor control of "the mouse" type, including elements of the user's identification in form of the block of readout code information of identifier, "the mouse" trackball controller and "the mouse" control buttons connected to it, differing by the fact that the readout block is executed with a channel provided to identifier, and the number of its readout elements, both with tile outputs, is conform to the number of the identifier code coordinates (Figure 1 of *O'Conner et al* discloses a mouse device used to control a cursor containing input switches 107 and 109, wherein said mouse device receives a fingerprint signal from the user from an integrated fingerprint imager and outputs the result of that fingerprint signal to a connected computing system.),

additional controller, connected by its inputs to the outputs of the readout block, and by its outputs - to the leads of "the mouse" trackball controller to connect "the

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mouse" control buttons, and connecting serially connected to sequent code the signals' transducer, the memory block, block of the code issue, and decoder which outputs are the outputs of this controller, and by its number correspond to the number of "the mouse" control button, at that the control input of the code issue block is connected to "the mouse" trackball controller output to connect the control button of the code issue, and the control output - to the control input of tile memory block (Figure 2 of *O'Conner et al* discloses an encoder 207, a decoder 211, a memory 223, and a comparator 221 which issues the code to be outputted to the connected computing system.), and

O'Conner et al fails to teach that the device is provided with the control button of the code issue, connected to "the mouse" trackball controller's output, and

all the named buttons are connected to the power source.

Michie discloses the device is provided with the control button of the code issue, connected to "the mouse" trackball controller's output (Figure 2 and Paragraphs [0038] – [0039] of *Michie* disclose a computer mouse 10 which contains a switch 12 which is used to transmit a password to a connected computer system.), and

all the named buttons are connected to the power source (It is well known in the art that electrical switches need power in order to function. Therefore it would be inherent that the named buttons would have power being supplied to them.).

Therefore it would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the computer mouse taught by *O'Conner et al* with the teachings of *Michie* in order to form a computer mouse wherein the password

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can be transmitted to the connected computer device by hitting a button on the mouse device.

Regarding claim 2, *O'Conner et al* as modified above discloses a device according to Claim 1 differing by the fact that the additional controller includes the start block, operating before the start of the identifier code information readout, and its inputs are the outputs of the named controller, and the outputs are connected to the inputs of the signals transducer to the serial code (Figure 2 of *O'Conner et al* discloses a circuit block 205 which initiates the code information readout in response to a received signal.).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHEN A. BRAY whose telephone number is (571)270-7124. The examiner can normally be reached on Monday - Friday, 9:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AMR AWAD can be reached on (571)272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/STEPHEN A BRAY/
Examiner, Art Unit 2629

/Amr Awad/
Supervisory Patent Examiner, Art Unit 2629

12 March 2010